

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LAWRENCE W. TEACHOUT,

Plaintiff,

Civil No. 2:22-CV-11723

Honorable Linda V. Parker

v.

GOVERNOR GRETCHEN WHITMER, et. al.,

Defendants.

_____ /

OPINION AND ORDER OF SUMMARY
DISMISSAL WITHOUT PREJUDICE

Plaintiff is a Michigan Department of Corrections inmate, currently confined at the Cooper Street Correctional Facility in Jackson, Michigan. He filed a Complaint against several Defendants on July 26, 2022. (ECF No. 1.) On August 29, 2022, Chief Magistrate Judge David R. Grand signed an order of deficiency, requiring Plaintiff to pay the filing fee or file the following documents if he wished to proceed without prepaying the filing fee: (i) an application to proceed without prepayment of fees and costs; (ii) a certification of Plaintiff's prison trust account signed by an authorized prison official; and (iii) a current computerized trust fund account showing the history of the financial transactions in Plaintiff's institutional trust fund account for the past six months. (ECF No. 4.) Plaintiff was granted thirty days to comply with the order. (*Id.*)

On September 15, 2022, this Court received Plaintiff's application to proceed without prepayment of fees and costs and a current computerized trust fund account showing the history of the financial transactions in Plaintiff's institutional trust fund account for the past six months. (ECF No. 5). The trust fund account statement, however, was unsigned. On December 14, 2022, this Court issued an order highlighting this deficiency. (ECF No. 7.) The Court granted Plaintiff an additional thirty days to file the signed certification regarding his prison trust account. (*Id.*) The Court warned Plaintiff that the failure to file the required document would result in dismissal of the action without prejudice for want of prosecution. (*Id.*) As of this date, Plaintiff has not submitted the required documentation.

28 U.S.C. § 1915(a)(2) requires a prisoner who seeks to proceed without prepayment of fees and costs in a civil complaint in federal court to file a certified copy of the trust fund account statement for that prisoner for the six-month period immediately preceding the filing of the complaint or notice of appeal, obtained from the appropriate official of each prison at which the prisoner is or was confined. *See also McGore v. Wrigglesworth*, 114 F.3d 601, 605 (6th Cir. 1997). An uncertified trust fund account statement, or one that lacks a signature, is insufficient to satisfy the filing requirements for permitting a prisoner to proceed *in forma pauperis* under § 1915(a)(2). *See Hart v. Jaukins*, 99 F. App'x 208, 209-10

(10th Cir. 2004). If a prisoner does not pay the full filing fee or fails to provide an affidavit of indigency or a certified trust account statement, the district court must advise the prisoner of the deficiency and provide the prisoner with thirty days from the date of the deficiency order to correct the error or pay the full filing fee.

McGore v. Wrigglesworth, 114 F.3d at 605. If the inmate fails to comply with the district court's directions, "[t]he district court must presume that the prisoner is not a pauper and assess the inmate the full amount of fees." *Id.* The district court must then order that the case be dismissed for want of prosecution. *Id.*

As Plaintiff has failed to correct the deficiency in this case, despite being granted extended time to do so, the Court **DISMISSES WITHOUT PREJUDICE** his Complaint for want of prosecution. As the dismissal is without prejudice, Plaintiff is not precluded from refiling his Complaint, under a new case number, **provided** he pays the filing and administrative fees or provides the complete and correct information necessary to proceed without prepayment of fees.

SO ORDERED.

s/ Linda V. Parker

LINDA V. PARKER
U.S. DISTRICT JUDGE

Dated: February 6, 2023

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, February 6, 2023, by electronic and/or U.S. First Class mail.

s/Aaron Flanigan

Case Manager